IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No. 975 of 1992

Date of Decision: 12.7.2006

Jagir Kaur and another

...Appellants

Versus

Zora Singh and others

...Respondents.

CORAM:- HON'BLE MR. JUSTICE AJAY KUMAR MITTAL.

PRESENT: Mr. B.B.S. Sobti, Advocate for the appellants.

Mr. G.S. Punia, Advocate for respondent No. 2.

Mr. Deepak Suri, Advocate for respondent No.3.

AJAY KUMAR MITTAL, J.

This appeal has been filed by the appellants against the judgment dated 13.2.1992 passed by the Motor Accident Claims Tribunal, Ludhiana (for short "the Tribunal") whereby the claim petition filed by the claimant-appellants has been dismissed being time barred.

The facts, in brief are that the claimants i.e. the widow and daughter of Hakam Singh filed a claim petition claiming compensation for the death of said Hakam Singh who had been travelling by a truck on 21.9.1989 and died on account of injuries sustained by him when the said truck over-turned. Since the claim petition was filed on 19.7.1990 i.e. after expiry of period permissible in law, an application filed for condonation of delay in filing the claim petition was also filed. It was stated that regarding

belated filing of the claim petition that on account of death of Hakam Singh in the aforesaid accident, the claimants remained mentally disturbed and were thus unable to contact their counsel for purpose of filing the claim petition.

The respondents besides resisting the claim petition on merits, contested the plea of the claimants tooth and nail and prayed for dismissal of the claim petition. The Tribunal took up the matter of delayed filing of the claim petition first and accordingly framed the following issues:

"1. Whether there is good and sufficient cause to condone the delay in filing the claim application? OPA.

2. Relief."

The Tribunal adjudicated the said issue against the claimants and rejected the claim petition as barred by time.

Learned counsel for the appellants submitted that limitation prescribed for filing claim petition under sub-section (3) of Section 166 of 1988 Act was omitted by Section 53 of the Motor Vehicles (Amendment) Act, 1994 which came into force w.e.f. 14.11.1994. Learned counsel further submitted that by virtue of provisions of the Amended Act, no limitation existed for filing a claim petition and in view of the pendency of the present appeal in this Court, the provisions of Amended Act would be applicable. He has placed reliance on the decisions of Hon'ble Supreme Court in cases titled **Dhannalal v. D.P. Vijayvargiya and others, AIR 1996 SC 2155** and **New India Assurance Company Ltd. v. Ramesh Bhai C. Patel and others, 1997 ACJ 938** in support of his submission. Learned counsel, thus, prayed that the judgment of the Tribunal be set aside and the matter be remitted to the Tribunal to decide the claim petition on merits expeditiously in accordance with law. Counsel appearing for respondent Nos.2 and 3, however, prayed for dismissal of the appeal.

I have heard learned counsel for the parties and perused the record.

The Apex Court in ***Dhannalal's*** case and ***Ramesh Bhai's*** case (supra) while considering the effect of deletion of sub-section (3) of Section 166 of the 1988 Act held that where a claim petition was filed while the said provision was operative but on 14.11.1994 when the Amended Act became operative and the proceedings were pending at any stage, the claim petition could not be thrown out on the ground of limitation. Accordingly, the appeal is allowed and the judgment of the Tribunal is set aside. The Tribunal is directed to entertain the claim petition filed by the claimants and decide the same expeditiously in accordance with law. Since the accident occurred about 17 years back, the Tribunal is directed to dispose of the claim petition by March 31, 2007 by giving dates for evidence at shortest intervals. The parties through their counsel are directed to appear before the Tribunal on 7.9.2006.

July 12, 2006 **(AJAY KUMAR MITTAL)**
MALIK **JUDGE**